yearly profits amounted to 60 million; the extensions proposed to 24 million; and the cash in hand and municipal bonds to 54 million. Action was brought to compel the declaration of an extra dividend. *Held,* that a decree ordering the defendant to distribute 19 million was proper. *Dodge et al. v. The Ford Motor Co. et al.* (1919, Mich.) 170 N. W. 668.

Although it is for the board of directors, and not for the stockholders, to decide whether dividends shall be declared, the directors may not arbitrarily refuse to divide profits. Whether there has been such an arbitrary refusal as calls for interference by equity is a question of fact, in the determination of which the amount of profits, of capital stock, and the nature of the business should be primarily considered. *Stevens v. United States Steel Corp.* (1905, Ch.) 68 N. J. Eq. 373, 59 Atl. 905 (profits 66 million, capital stock 1 billion; withholding not arbitrary); *Raynolds v. Diamond Paper Mills Co.* (1905, Ch.) 69 N. J. Eq. 290, 60 Atl. 941 (assets of corporation doubled; but the business required constant expansion). Under the facts of the principal case, the decision reached seems clearly right. It is to be commended as a protection of minority holders against the arbitrary acts of a numerically small majority.

EVIDENCE — DYING DECLARATIONS — "SHOT WITHOUT PROVOCATION" NOT AN OPINION.—In a prosecution for homicide, the state offered in evidence a dying declaration in writing signed by the deceased, that he was "shot without provocation." *Held,* that the declaration was admissible as a statement of fact. *State v. McNair* (1918, Utah) 178 Pac. 48.

Dying declarations, if admitted at all, should be admitted irrespective of the form in which they are made. The "opinion" rule should not be applied to exclude such a declaration when it is impossible to have the declarant present the facts in any other form. 2 Wigmore, *Evidence,* 1447. The principal case is believed sound as the declaration is predominantly a concise statement of facts—what the deceased did not do. To exclude it as an opinion would render valuable evidence inadmissible merely because of the words in which it came, by pure chance, to be expressed; a dying layman does not and cannot pick his phrases with reference to rules over which even lawyers fight. See (1918) 27 YALE LAW JOURNAL, 700; *cf.* (1917) 26 *ibid.* 505.

EVIDENCE—PEDIGREE—RELATIONSHIP—COMMUNITY-REPUTATION.—In an action to recover land, the sole question was whether the plaintiff was the brother of a decedent. The defendant, in refutation of this relationship, offered in evidence the general reputation in the community thereon. *Held,* that such reputation was inadmissible. *Ashe v. Pettiford* (1919, N. C.) 98 S. E. 304.

Community-reputation, though admissible to establish marriage, is not admitted to establish blood relationship. *Elder. v. The State* (1899) 123 Ala. 35, 26 So. 213; *Lamar v. Allen* (1899) 108 Ga. 158, 33 S. E. 958; *Vowles v. Young* (1806, Eng. Ch.) 13 Ves. Jr. 140. The rule has been criticized, in cases where more direct methods of proof are unavailable. 2 Wigmore, *Evidence,* 1953. And a few states admit the evidence, either by statute or at common law. *State v. McDonald* (1910) 55 Ore. 419, 106 Pac. 444; *Carter v. Montgomery* (1875) 2 Tenn. Ch. 227; *Ewell v. The State* (1834, Tenn.) 6 Yerg. 364.

INTERSTATE COMMERCE—FEDERAL EMPLOYERS' LIABILITY ACT—WORKMEN'S COMPENSATION.—The decedent was employed by the railroad company as a laborer. While shoveling snow from the tracks, which were used for both interstate and intrastate transportation, he was struck by a passing train and later died from the injuries. His widow received an award under the New York Workmen's Compensation Act. *Held,* that the award must be set aside, as the employer was engaged in interstate commerce and the case was governed